

**LUDLOW HOUSING AUTHORITY**  
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**PROCUREMENT POLICY**

This procurement policy has been adopted by the Ludlow Housing Authority (LHA) in order to comply with Massachusetts bidding statutes governing the procurement of supplies and services (**MGL c.30B**) the **Uniform Procurement Act**, construction related work (**MGL c.149§44A-H; MGL c.149 §44A½; MGL c.149 §44A¾; MGL c.149 §29; MGL c.149 §26-27A; (MGL c.30 §39M;)** and design services (**MGL c.7 §38A½**), and Federal procurement requirements known as the "**COMMON RULE**" described at **24 CFR 85.36 and 37** which requires a public entity to utilize the stricter of the two procurement requirements. This procurement policy supersedes any and all previous policies. This policy hereby incorporates by reference all provisions of the above-cited laws and regulations and adheres to the Code of Conduct for Public Employees, consistent with applicable state and federal laws.

**I . PROCURING SUPPLIES AND SERVICES**

Under Chapter 30B it is the actual bid/contract price and not the awarding authority's estimate which determines the bidding procedures to be utilized for the procurement of supplies, services. Chapter 30B does not allow a jurisdiction to award a contract that exceeds the dollar threshold of the bidding procedure used nor does it allow contract increases to exceed twenty-five percent (25%).

**A. Procurements for supplies and services governed by MGL c.30B, the Uniform Procurement Act shall be made in the following manner:**

(1) The Executive Director, hereinafter referred to as the Chief Procurement Officer (CPO) or his/her authorized designee shall make procurements as necessary not to exceed **\$4,999.99** in the open market **using sound business judgment** to ensure that the price obtained is the most advantageous to the LHA.

(2) For the procurement of supplies and services estimated to cost between **\$5,000.00** and **\$24,999.99** the CPO or his/her authorized designee shall solicit price quotations either orally by telephone, or in writing from at least three vendors using a prepared written description for the particular procurement. However, this does not require the receiving three (3) quotes. The LHA may award a contract on the basis of one or two quotes received. The CPO must keep on file a record of all price

quotations sought including names, addresses, and the dates and amounts of quotations. All documents relating to purchases and

contracts under this section must be kept for a period seven (7) years from date of final payment. **All procurements in excess of \$5,000.00 require a written and fully executed contract.**<sup>1</sup>

(3). Invitations to Bid (IFB). For procurements estimated to cost **\$25,000.00** or more the CPO or his/her authorized designee must use the sealed Invitation to Bid (IFB) process in accordance with MGL c.30B §5 or justify using the RFP process in §6.

- Bids shall be invited by advertising in a newspaper of general circulation once, two (2) weeks before the date specified for the opening of bids;
- IFBs may be mailed to all available vendors; Procurements of a **\$100,000.00** or more shall also be advertised in the Goods and Services Bulletin.
- A copy of the bid notice must be posted in a conspicuous place at the LHA.
- A contract bid under this process shall be awarded to the lowest eligible responsible bidder.

The CPO must keep on file with regard to every solicitation made all documents relating to these procurements under this section and shall be kept for a period of seven (7) years from date of final payment. This includes, a copy of Invitation to bid, all bids received, a record of names, addresses, and the amount of bids.

(4) Requests for Proposals (RFP). For procurements estimated to cost **\$25,000.00** or more utilizing the RFP process in MGL c.30B §6 vs. the IFB process identified in (3) above, the process is as follows:

- The CPO or his/her authorized designee must provide the board with written justification as to why it is advantageous and in the public interest to use this process;
- Criteria must be developed for each task; (MGL c.30B6.
- Evaluation Committee must be appointed; **(not the LHA board)**
- Allows contract award to bidder who has highest rating, not necessarily the lowest price;
- Two separate envelope bid submission;

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<sup>1</sup> Use sample DHCD Supplies & Services Contract for IFB procurements involving state funds as a guide attached as Exhibit A. DHCD contract validation required. See accounting manual and/or Housing Management Handbook for contract thresholds requiring DHCD validation.

(5) Statewide Contract List. For goods and services included on the statewide contract list awarded by the state's Operational Services Division (OSD), the CPO or his/her authorized designee may purchase from a statewide contract vendor without any further solicitation or invitation to bid regardless of the dollar amount.

- These procurements shall be documented;
- Expenditures of up to **\$4,999.99** shall be authorized by a standard purchase order form;
- Expenditures of **\$5,000.00** or more shall have a fully executed contract;

(6) Contracts in (2), (3) & (5) above may be entered into for a term greater than **three years**, including renewals, extensions, or options, except automated laundry<sup>2</sup> or elevator services which shall be for a term voted by a majority of the Board before the procurement is made, but shall be no **greater than 10 years**.

(7) If the purchase is made from any vendor other than one offering the lowest price on an IFB procurement, justification for such a bid rejection shall be in writing and kept with the bid documents.

**B. Services Exempt From MGL c.30B**

(8) In accordance with MGL c.30B §1(b)(9), a contract to purchase supplies or services from, or to dispose of supplies to, any agency or instrumentality of the federal government, the commonwealth, or any of its political subdivision is exempt from Chapter 30B procurement requirements.

(9) In accordance with MGL c.30B §1(b)(15), contracts with labor relations representatives, lawyers, designers, or certified public accountants are exempt from Chapter 30B procurement requirements.<sup>3</sup>

(10) In accordance with MGL c.30B §1(b)(30) a contract for the collection, transportation, receipt, processing or disposal of solid waste, recyclable or combustible materials.<sup>4</sup>

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<sup>2</sup> For laundry service contracts LHA shall use the DHCD Service Contract Form. Never use the vendor's contract.

<sup>3</sup> For legal services, LHA shall use the DHCD Agreement for Legal Services; For CPA consultants see DHCD Accounting Manual; For Design Services consultant with your DHCD project manager.

<sup>4</sup> For trash removal LHA shall use the DHCD Service Contract Form. Never use the vendor's contract.

**C. Emergency Procurements Under MGL c.30B**

(1) If the time required to comply fully with a Chapter 30B procurement would endanger the health or safety of people or property due to an unforeseen emergency, the needed **supply or service** may be procured without comply with the Chapter 30B requirements. An emergency procurement form must be submitted as soon as possible to the Goods and Services Bulletin for publication. This process cannot be used for construction related emergency procurements.

**D. Sole Source Procurements Under MGL c.30B**

(1) The LHA may make a sole source procurement of any supply or service under **\$25,000.00** when a reasonable investigation shows that there is only one practicable source for the required supply or service. This determination that only one practical source exists must be in writing. (Chapter 30B, Section 7).

**E. Contract Funding**

(1) All procurement of equipment, materials, and non-personnel services shall be documented. Expenditures shall be supported by receipts and shall be made by standard purchase order. Each purchase, regardless of dollar amount, shall be approved by the CPO or his/her designee. On a monthly basis, in advance, the Financial Administrator shall indicate to the CPO the amount of dollars in each program available in order to have sufficient funds available for payment. Purchase orders shall be filed with the resulting purchase documents.

**II. CONSTRUCTION CONTRACTS<sup>5</sup>**

**BUILDING RELATED - VERTICAL CONSTRUCTION**

When construction contracts are procured under the following methods, the LHA shall apply for prevailing wage rates in accordance with MGL c.149 §26-27A regardless of dollar amount. All construction contracts in the amount of **\$2,000.00** or more shall require a payment bond in an amount not less than one-half (½) of the contract price, in accordance with MGL c.149 §29. This requirement cannot be waived and letters of credit, checks or bank books cannot be accepted in lieu of a payment bond. The LHA shall use the appropriate DHCD Front-end document on all state developments.

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<sup>5</sup> For all construction projects the appropriate DHCD Front-End Document shall be used. Contact DHCD project manager so that a DHCD FISH # can be assigned. FISH = Financial Information Systems for Housing.

**A.** Small building related (vertical construction) and site work (horizontal construction) construction projects shall be awarded in the following manner:

(1) For small building related construction contracts which include labor & materials estimated to cost between **\$0 to \$9,999.00**, the CPO or his/her authorized designee shall follow MGL c.149 §44A(2)(A) and may award by soliciting three (3) written price quotes to ensure contract award to the most responsible person at the lowest price.

(2) For small building related construction contracts which include labor & materials estimated to cost between **\$10,000.00 to \$24,999.00**, CPO must follow MGL c.149 44A(2)(B) procedures and **solicit written quotes from at least three (3) contractors using the public notification process. DHCD RECOMMENDS SEALED BIDS.** However, it does not require receiving three written quotes. You may award a contract on the basis of one (1) or two (2) written quotes received.

The CPO shall keep on file a record of all price quotations including names, addresses, and the amounts of quotations. All documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from date of final payment.

(3) For construction contracts estimated to cost between **\$25,000.00 and \$100,000.00** the CPO or his/her authorized designee shall follow the sealed bid procedure of M.G.L. c.149 §44A(2)(c) identified in MGL c.30 sec.39M as follows:

- Bids shall be invited by advertising in the central register and a newspaper of general circulation once, two (2) weeks before the date specified for the opening of bids. Bid notice shall be posted in a conspicuous place at the LHA;
- Ad/invitation may be mailed to all available contractors to stimulate competition;
- A contract bid under this process shall be awarded to the lowest eligible and responsible bidder.

(4) For construction contracts estimated to cost **\$100,000 to \$10,000,000.00** (contracts for the construction, demolition, maintenance, or repair of a building - vertical construction) the CPO or his/her authorized designee shall follow the sealed bid procedures required under MGL. c.149 §44A-M. These contracts require prevailing wage rates or if a federal project Davis Bacon Wage Rates and require a performance and payment bond in the full amount of the contract price.

The CPO must keep on file with regard to every solicitation made all documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from date of final payment. A copy of bid forms received, a record of names, addresses, and the amounts of bids (tabulation).

(5) For construction contracts estimated to cost **\$10,000,000.00** or more (contracts for the construction, demolition, maintenance, or repair of a building - vertical construction) the CPO or his/her authorized designee shall follow the pre-qualification process and sealed bid procedures required under MGL. c.149 §44D  $\frac{1}{2}$  and MGL c.149 §44D  $\frac{3}{4}$ .

### **III. NON-BUILDING RELATED <sup>6</sup> CONSTRUCTION HORIZONTAL CONSTRUCTION CONSTRUCTION MATERIALS**

(1) For public works construction, i.e., site work (horizontal construction) labor & materials or for the purchase of construction materials with no labor estimated to cost **\$10,000.00** or more the CPO or his/her authorized designee shall follow the sealed bid procedure under M.G.L. c.30, § 39M and use the appropriate DHCD Construction Front-End. LHA also has the discretion to utilize MGL c.30B procurement requirements as outlined below & in the attached summary. All of these contracts require prevailing wage rates and a payment bond in an amount not less than one-half ( $\frac{1}{2}$ ) of the contract price is required. **On projects \$50,000.00 or more DHCD requires a performance and payment bond in 100% of the contract amount.**

(2) As stated in #1 above, the LHA also has the option of using Chapter 30B for horizontal construction projects which include labor & materials estimated to cost between **\$0 to \$4,999.00; \$5,000 to \$9,999.99 and \$10,000 to \$25,000.00. These procedures are in the attached summary.** These contracts require prevailing wage rates and a payment bond in an amount not less than one-half ( $\frac{1}{2}$ ) of the contract price if cost is \$2,000 or more.

- The LHA may be part of a local city or town governmental procurement, i.e., site work if upon request by the LHA the contracting governmental agency includes the LHA in its initial advertisement for bids by describing the work and location of work to be performed for the LHA.

The CPO shall keep on file a record of invitation made and offers received, a record of names, addresses, and the amounts of bids shall be kept in the file with regard to every

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<sup>6</sup> Contact DHCD project manager for DHCD Front-End an assigned FISH #.

solicitation made. All documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from date of final payment. A copy of invitation made and offers received, a record of names, addresses, and the amounts of bids.

(3) For the purchase of construction materials only (no labor) estimated to cost between \$0 and \$4,999.00 the CPO or his/her designee may use MGL c.30B §5 using sound business judgment. Use a written specification for the particular procurement.

(4) For the purchase of construction materials<sup>7</sup> only (no labor) estimated to cost between \$5,000.00 and \$24,999.00 the CPO or his/her designee may use MGL c.30B §5 to solicit price quotations either orally by telephone, or in writing from at least three (3) vendors using a prepared written specification for the particular procurement. However, this does not require receiving three (3) quotes. The LHA may award a contract on the basis of one or two quotes received.

(5) For the purchase of construction materials only (no labor) estimated to cost \$25,000.00 or more the CPO or his/her designee may use MGL c.30B §5 by advertising for Bids in a newspaper of general circulation once two (2) weeks before bid opening. Contract is awarded to lowest eligible and responsible bidder.

The CPO must keep on file with regard to every solicitation made all documents relating to purchases and contracts under this section shall be kept for a period of seven (7) years from date of final payment. A copy of invitation made and offers received, a record of names, addresses, and the amounts of bids.

### III. THE BOARD

(1) The CPO shall submit all bids and quotes \$5,000.00 and up at the next regular meeting and the Board must vote to authorize the award of the bid.

(2) A CPO may not solicit or award a contract for a term greater than three years, including renewals, extensions, or options except for automated laundry or elevator services which shall be for a term voted by the Board. (No greater than 10 years)

(3) A written contract is required for supply & service procurements of \$5,000.00 or more. Purchase under \$5,000 may be made with a purchase order.

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<sup>7</sup> LHA has option to bid in accordance with MGL c.30 §39M procedures.

(4) Applicable rules established by the Department of Housing and Community Development and the Department of Housing and Urban Development, and their respective Inspector Generals' shall be adhered to. These procedures and any changes thereto will be submitted to the Board for approval.

(5) Lack of competition is permissible only when an emergency exists which permits no delay because of the possibility of injury, loss of life, or destruction of property, or when only one source of supply is available and the CPO or his/her designee shall so certify. For the purposes of emergency situations involving construction related work a DCAM waiver shall be required. For supplies & services the Chapter 30B emergency procedures are to be followed.

(6) Positive efforts shall be made by the CPO to use small minority-owned and women owned businesses as a source for supplies and services. Such efforts should include developing a bidder's mailing list for these sources, and encouraging these businesses to compete for contracts to be awarded.

#### **IV. DELEGATION OF PROCUREMENT OFFICER'S POWERS AND DUTIES**

As this relates to MGL c.30B procurements the CPO may delegate his powers and duties in accordance with this section to one or more employees of the LHA. A delegation shall be in writing, be signed by the CPO, and state the activity or function authorized and the duration of the delegation. A delegation may be in specific or general terms, may be limited to a particular procurement or class of procurements, and may be conditioned upon compliance, with specified procedures. A delegation may be revoked or amended whenever the chief procurement officer determines that revocation or amendment is in the best interests of the governmental body. A delegation of power or duties by a procurement officer and any revocation or amendment thereof shall not take effect until a copy of the same has been filed with the office of the inspector general.

Voted by Board:



CONSTRUCTION BIDDING SUMMARY

BUILDING RELATED WORK - MGL c.149 §44A-M

TYPE OF WORK	BIDDING PROCEDURES
<p><b>Vertical Construction</b> - Building related work, labor &amp; materials, labor only, estimated cost to cost <b>\$0 - 9,999.00</b></p>	<p>Solicit written quotes in accordance <b>with M.G.L. c.149 §44A(2) (A) , as amended by C.193 of the Acts of 2004</b> from a prepared scope of work from no fewer than 3 persons/firms customarily providing the required service. Apply for prevailing wages &amp;/or Davis Bacon. Payment bond required in ½ of contract amount if contract amount is <b>\$2,000</b> or more. Award to the responsible person at the lowest price quote.</p>
<p><b>Vertical Construction</b> - Building related work, labor &amp; materials, labor only, estimated to cost between <b>\$10,000.00 - \$24,999.00</b></p>	<p>Solicit written quotes through public notification process in accordance with <b>M.G.L. c.149, §44A(2)(B), as amended by C.193 of the Acts of 2004</b>. Notice shall include a scope of work statement defining the work to be performed and work requirements. Payment bond required in ½ of contract amount. Apply for prevailing wages &amp;/or Davis Bacon.</p>
<p><b>Vertical Construction</b> - Building related work labor and materials estimated to cost between <b>\$25,000.00 - \$100,000.00;</b></p>	<p>Public bid in accordance <b>with M.G.L. c.149, §44A(2)(C), as amended by C.193 of the Acts of 2004</b>. No DCAM certification or filed sub-bids required. Apply for prevailing wages &amp;/or Davis Bacon. 5% Bid Deposit Required. Minimum payment bond in amount ½ of contract amount. On DHCD jobs full performance &amp; payment bonds are required if cost is estimated over <b>\$50,000.00</b>. <b>No DCAM Certification; No filed Sub Bids</b></p>
<p><b>Vertical Construction</b> - Building related work labor and materials estimated to cost between <b>\$100,000.00 - \$10,000,000.00 ;</b></p>	<p>Public bid in accordance with <b>M.G.L. c.149, §44A(2)(D), amended by C.193 of the Acts of 2004</b>. GC must be DCAM certified and 100% Performance &amp; payment bonds required for GC. Filed sub-bids required if estimated greater than \$20K &amp; performance &amp; payment bonds at the request of GC. General's &amp; subs must provide a 5% bid deposit with its bid. <b>DCAM Certification for Generals. Effective 01/1/05 filed subcontracts must be DCAM certified.</b></p>
<p><b>Vertical Construction</b> - Building related work labor and materials estimated to cost <b>\$10,000,000.00 ;</b></p>	<p>Public bid in accordance with <b>M.G.L. c.149, §§ 44(D½) &amp; 44(D¾) new section added by C.193 of the Acts of 2004</b>. AA must pre-qualify General's &amp; Filed Subs via RFQ before Advertising for Bids; AA must establish a pre-qualification committee; GC's &amp; Subs must be DCAM certified; 100% Performance &amp; payment bonds required for the GC &amp; AA must require for Sub's in RFQ. Filed sub-bids required if estimated greater than \$20K. <b>Effective 01/1/05.</b></p>

TYPE OF WORK	BIDDING PROCEDURES
<p><b>Horizontal Construction</b> - Non-building related construction work estimated to cost \$10K or more including labor &amp; materials or just construction materials</p>	<p><b>MGL c.30 §39M.</b> Wage Rates required. Advertise for Sealed Bids - Central Register + Newspaper. Contracts <b>\$2,000</b> or more require a payment bond in ½ of contract amount. <b>DHCD requires 100% Performance &amp; Payment for all work estimated to cost \$50K or more.</b> 5% Bid Deposit is required; Certificates of Insurance which comply to specification;</p>
<p><b>Horizontal Construction</b> - Non-building related construction work estimated to cost \$0 to \$4,999.00 including labor &amp; materials.</p>	<p><b>MGL c.30B</b> Use Sound Business Judgment; Wage Rates required . A purchase order may be used for procurements less than <b>\$5,000.00.</b></p>
<p><b>Horizontal Construction</b> - Non-building related construction work estimated to cost \$5,000 to \$10,000 including labor &amp; materials.</p>	<p><b>MGL c.30B</b> - Obtain three oral or written quotes; Wage Rates required, ½ payment bond required and executed contract.</p>
<p><b>Horizontal Construction</b> - Non-building related construction work estimated to cost \$10,000 to \$25,000 including labor &amp; materials</p>	<p><b>MGL c.30B</b> – Advertise in newspaper of general circulation and post notice at LHA; Wage Rates required, ½ payment bond required and executed contract;</p>
<p><b>Purchase of construction / building-related materials (NO LABOR)</b> estimated to cost between \$0 to \$25,000;</p>	<p><b>MGL c.30B</b> - Obtain three oral or written quotes; Executed contract required if more than <b>\$5,000;</b></p>
<p><b>Purchase of construction/ building-related materials (NO LABOR)</b> Any \$\$ amount;</p>	<p>You may purchase off the Statewide Service Contract List; If contract does not exist for particular procurement and is estimated to cost <b>\$25,000</b> or more you may advertise in accordance with <b>MGL c.30B §5</b> or in accordance w/ <b>MGL c.30 §39M.</b></p>

Policy adopted by Board on: September 18, 2013